

1 ALVERSON TAYLOR & SANDERS
2 JONATHAN B. OWENS, ESQ.
3 Nevada Bar No. 7118
4 6605 Grand Montecito Pkwy, Ste. 200
5 Las Vegas, NV 89149
6 Telephone: 702-384-7000
7 Facsimile: 702-385-7000
8 efile@alversontaylor.com
9 jowens@alversontaylor.com
10 *Attorneys for Defendant,
11 Sunbeam Products, Inc. and
12 and Newell Brands Inc.*

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 CHRISTINE LAYTON,

16 Civil Action No: 2:21-cv-00989-RFB-BNW

17 Plaintiff,

18 vs.

19 SUNBEAM PRODUCTS, INC., A FOREIGN
20 CORPORATION, NEWELL BRANDS, A
21 FOREIGN CORPORATION, DOES 1
22 THROUGH 10, INCLUSIVE and ROE
23 CORPORATIONS 1 THROUGH 10,
24 INCLUSIVE.

25 Defendant.

26 **STIPULATION AND (PROPOSED)**
27 **ORDER TO EXTEND DISCOVERY**
28 **(First Request)**

29 COMES NOW Plaintiff CHRISTINE LAYTON and Defendants SUNBEAM
30 PRODUCTS, INC. and NEWELL BRANDS, INC. by and through their respective attorneys of
31 record, and herein stipulate, agree and make joint application to extend the discovery period
32 (including all corresponding discovery deadlines) in this matter to June 30, 2022, for the purpose
33 of further discovery, including the depositions of Plaintiff and her medical providers, obtaining
34 further information from Plaintiff about her claimed damages, the requisition of medical and
35 billing records pertaining to Plaintiff's injuries, and conducting an inspection of the heating pad
36 in question. This is the first stipulation for extension of all discovery deadlines.

1 **I. INTRODUCTION**

2 Plaintiff's claims arise out of an incident that took place on or about April 19, 2019, in
 3 Clark County, Nevada. Plaintiff allegedly sustained a large second degree burn to her right upper
 4 back, while allegedly using a heating pad manufactured by Defendants, resulting in a blister that
 5 allegedly required immediate medical attention. Plaintiff filed her Complaint in the District
 6 Court of Clark County, Nevada on March 8, 2021. Defendants Sunbeam Products, Inc. and
 7 Newell Brands, Inc. removed this matter to the United States District Court of Nevada on May
 8 24, 2021. Pursuant to the Discovery Order entered by the Court on September 13, 2021, the last
 9 day to amend pleadings or add parties is January 28, 2022, initial expert disclosures must be
 10 served by February 25, 2022, rebuttal expert disclosures must be served by March 25, 2022, and
 11 discovery closes on April 28, 2022. Dispositive motions must be filed no later than May 27,
 12 2022, and the Joint Pretrial Order must be filed by June 24, 2022.

13 Due to issues associated with obtaining discovery related to Plaintiff's claimed damages,
 14 claimed injuries, and claimed medical treatment, that further complicated the coordination of
 15 deposition dates for Plaintiff and her medical providers, as well as the coordination of expert
 16 witnesses and an inspection of the allegedly defective heating pad, the parties have agreed to
 17 extend all discovery deadlines by 60 days, altering the close of discovery to June 30, 2022. This
 18 will allow both Plaintiff and Defendants the opportunity to conduct further discovery, schedule
 19 the depositions of Plaintiff and her medical providers, coordinate an inspection of the subject
 20 heating pad, and coordinate expert witnesses.

21 **II. DISCOVERY COMPLETED TO DATE**

22 1. On July 1, 2021, Plaintiff served her Initial Disclosures Pursuant to FRCP
 23 26(a)(1).

24 ////

1 2. On July 13, 2021, Defendants Sunbeam Products, Inc. and Newell Brands, Inc.
 2 served their Initial Disclosures Pursuant to FRCP 26(a)(1).

3 3. On September 24, 2021, Defendants Sunbeam Products, Inc. and Newell Brands,
 4 Inc. served their First Set of Request for Production of Documents and First Set of
 5 Interrogatories to Plaintiff.

6 4. On November 9, 2021, Plaintiff served her Responses to Defendants' First Set of
 7 Interrogatories and Requests for Production of Documents.

8 5. On January 11, 2022, Defendant Sunbeam Products, Inc. and Newell Brands, Inc.
 9 filed their Motion to Compel Plaintiff's Responses to Defendants' Request for Production of
 10 Documents.

12 **III. DISCOVERY REMAINING**

13 1. Deposition of Plaintiff;
 14 2. Depositions of Plaintiff's treating medical providers;
 15 3. Depositions noticed by Plaintiff;
 16 4. Inspection of Subject Heating Pad;
 17 5. Initial Expert disclosures;
 18 6. Rebuttal Expert disclosures;
 19 7. Depositions of all disclosed expert witnesses; and
 20 8. Additional written discovery.

22 **IV. REASONS WHY DISCOVERY SHOULD BE EXTENDED**

24 The close of discovery is set for April 28, 2022, with initial expert witness disclosures set
 25 for February 25, 2022, and rebuttal expert disclosures due March 25, 2022. While the parties
 26 have engaged in the discovery as outline above, the parties need more time to conduct the
 27 discovery needed to adequately prepare for expert witness disclosures and the upcoming close of

1 discovery. Specifically, Defendants need more time to obtain Plaintiff's relevant medical records
2 and bills in order to adequately prepare an expert for initial disclosure, as well as adequately
3 prepare and take the deposition of Plaintiff and her treating medical providers. While Plaintiff
4 disclosed medical and billing records from Henderson Hospital and Shadow Emergency
5 Physicians in her initial disclosures and responses to written discovery, she also indicated that
6 she sought additional treatment at Monos Health Institute and Southwest Medical Associates but
7 did not provide additional information regarding the same. Moreover, Defendants need to inspect
8 the subject heating pad, which has been tentatively set for March 23, 2022. The parties also need
9 to complete the depositions of any depositions noticed by Plaintiff and her counsel.
10

11 The parties will not be able to complete these various tasks by the current discovery
12 deadlines due to the continued need of additional medical and billing records from Plaintiff,
13 which have been requested from Plaintiff and have been sought but not yet received by
14 subpoenas issued to Plaintiff's medical providers by Defendants.
15

16 Nevada District Court Local Rule 26-3 states that to extend a deadline, the parties must
17 show good cause for the extension. A showing of good cause includes the diligence of the party
18 seeking the amendment and "the district court may modify the pretrial schedule if it cannot
19 reasonably be met despite the diligence of the party seeking the extension." *Johnson v. Mammoth*
20 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

21 Defendants have diligently sought discovery from Plaintiff, including serving Plaintiff
22 with requests for production of documents and interrogatories on September 24, 2021, to which
23 Plaintiff responded on November 9, 2021. In her responses, Plaintiff indicated that she sought
24 treatment from the four (4) medical providers noted above, but only provided the medical and
25 billing records from Henderson Hospital and Shadow Emergency Physicians, stating that the
26 additional medical records and bills from Monos Health Institute and Shadow Emergency
27

1 Physicians had been requested and would be provided upon receipt. As of the filing of this
 2 stipulation, Plaintiff disclosed information from Monos Health Institute, but not information
 3 from Southwest Medical Associates, and Defendants have yet to receive copies of Plaintiff's
 4 medical and billing records via subpoena. Therefore, the Parties need more time to obtain the
 5 relevant medical and billing records in order to adequately prepare for depositions, expert
 6 witness disclosures, and the close of discovery.

7 Based on the Parties' continued efforts to conduct discovery, including obtaining
 8 Plaintiff's medical and billing records (via request to Plaintiff and subpoenas to the providers),
 9 and conducting written discovery to adequately prepare for the necessary depositions and expert
 10 witness disclosures, the parties' have demonstrated the requisite good cause and attempt to use
 11 alternative methods to complete discovery necessary to extend the discovery deadline. For the
 12 reasons stated above, the parties respectfully request this Court approve the instant Stipulation
 13 and enter its order granting the same.

14 **V. PROPOSED SCHEDULE FOR COMPLETE DISCOVERY**

	<u>Current:</u>	<u>Proposed:</u>
18 Last day to conduct all other discovery:	April 28, 2022	June 30, 2022
19 Last day to amend pleadings/add parties:	January 28, 2022	March 30, 2022
20 Last day to disclose experts:	February 25, 2022	April 27, 2022
21 Last day to disclose rebuttal experts:	March 25, 2022	May 27, 2022
22 Last day to file dispositive motions:	May 27, 2022	July 27, 2022
24 Joint Pre-Trial Order:	June 24, 2022	August 26, 2022

25 ////

26 ////

27 ////

1 The parties have entered into this Stipulation in an effort to complete discovery and
2 pretrial motions. It is not the intent of the parties to delay the conclusion of this matter. The
3 parties wish to obtain any and all necessary information, through formal discovery, to evaluate
4 this case for further settlement purposes and to prepare the case for trial. No trial date has been
5 scheduled.

6 Dated this 18th day of January, 2022.

7 ALVERSON TAYLOR & SANDERS

8 */s/Jonathan B. Owens*

9 JONATHAN B. OWENS, ESQ.
10 Nevada Bar No. 7118
11 6605 Grand Montecito Pkwy, Ste. 200
12 Las Vegas, NV 89149
13 *Attorneys for Defendant,*
14 *Sunbeam Products, Inc. and*
15 *Newell Brands Inc.*

16 ////

17 ////

18 ////

19 ////

20 ////

21 ////

22 ////

23 ////

24 ////

25 ////

26 ////

27 ////

28

6 Dated this 18th day of January, 2022.

7 RICHARD HARRIS LAW

8 */s/Christian Miles*

9 CHRISTIAN MILES, ESQ.
10 Nevada Bar No. 13193
11 801 S 4th St.,
12 Las Vegas, NV 89101
13 *Attorneys for Plaintiff*

14 **ORDER**
15 **IT IS SO ORDERED**

16 **DATED:** 2:40 pm, January 31, 2022

17 

18 **BRENDA WEKSLER**
19 **UNITED STATES MAGISTRATE JUDGE**